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United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea
Twelfth meeting
20-24 June 2011

Contribution to the twelfth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea

Submitted by the European Union

1. The European Union is pleased to share with the Secretariat and other States its further views in preparation for the twelfth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea.

2. As decided by the General Assembly in paragraph 231 of its resolution 65/37, the Consultative Process will focus its discussions at its twelfth meeting on contributing to the assessment, in the context of the United Nations Conference on Sustainable Development, of progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development and addressing new and emerging challenges.

3. The European Union welcomes this topic, as it provides us with a unique opportunity to ensure that the importance of oceans in the context of sustainable development is recognized at the highest political level. This year's Informal Consultative Process should seek to ensure that the outcome of the United Nations Conference on Sustainable Development includes the objective of substantial progress in terms of more effective oceans conservation and management, through adequate frameworks, policies and mechanisms, with the view to strengthening all three pillars of sustainable development.

4. Oceans have been addressed at previous major summits on sustainable development, including under chapter 17 of Agenda 21 and paragraphs 30 and 36 of the Plan of Implementation of the World Summit on Sustainable Development. At these meetings, commitments have been made with regard to the sustainable development of oceans and coastal areas. While important political efforts have been undertaken, significant shortcomings in the implementation of these policies should be recognized. Effective measures need to be developed to address these

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shortcomings, and the European Union is willing to engage in negotiations to that end.

5. The Informal Consultative Process discussions may be a useful contribution to the United Nations Conference on Sustainable Development, and the European Union would, in particular, welcome a discussion on the following areas, given their importance to sustainable development:

(a) The way forward towards marine spatial planning tools, including the actual establishment of marine protected areas including representative networks;

(b) Prior environmental impact assessments and strategic environmental assessments;

(c) Implementation, compliance and enforcement of conservation and management measures;

(d) Fisheries, including overcapacity, subsidies, illegal, unregulated and unreported fishing, the role of scientific advice, destructive fishing practices, the impact on threatened or vulnerable species, and the link between fisheries, food security and sustainable development;

(e) Impacts of rising sea levels, namely on small island developing States and the sustainability of coastal communities.

6. The European Union favours the reform of regional fisheries management organizations and other management organizations, with a view to enhancing the application of modern conservation and management principles, such as the precautionary principle and the ecosystem approach, and to increasing transparency and accountability, including through regular reporting and reviews of regional fisheries management organizations at the international level and by ensuring consistent international oceans governance oversight at the international level. Such progress will require the development of specific measures at the local, national, regional and global levels. In addition, the European Union remains of the view that, in order to facilitate the elaboration and implementation of some of these measures, the development of an implementing agreement under the United Nations Convention on the Law of the Sea would constitute an important step forward. We remain ready to discuss with our negotiation partners how the development of such an institutional mechanism should be initiated and which issues it should seek to address.

7. The European Union would like to suggest Mr. Philip Weaver, coordinator of the Hotspot Ecosystem Research and Man's Impact on European Seas (HERMIONE) project, to serve as a panellist. HERMIONE is a collaborative project funded under the Framework 7 programme of the European Commission. HERMIONE is the successor to the highly successful Hotspot Ecosystem Research on the Margins of the European Seas (HERMES) project, which concluded in March 2009. It is designed to bring about a major advance in our knowledge of the functioning of deep-sea ecosystems and their contribution to the production of goods and services.

8. HERMIONE will address some of the key gaps in socio-economic and governance knowledge and methodologies, as well as developing and implementing appropriate science-policy interface mechanisms to ensure the policy relevance of

the research and to facilitate the translation of research into policy advice at the national, European and international levels.

9. The European Union looks forward to a constructive round of negotiations and hopes, through this submission, to have contributed to this objective.

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Contribution to the twelfth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea

Submitted by the Pacific small island developing States

Introduction

1. The Pacific small island developing States at the United Nations consider that the twelfth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea can provide valuable input into the planning for the United Nations Conference on Sustainable Development (Rio plus 20). As a contribution to the meeting and to Rio plus 20, the present paper therefore sets out our views on sustainable development in relation to the marine environment.

2. The sustainable development of our island countries relies on the health and vitality of the marine environment. For the Pacific small island developing States, the "green economy" is in fact a "blue economy". Accordingly, we envision a Rio plus 20 agenda that prominently features the conservation and sustainable management of marine and ocean resources, and the ability of small island developing States to enjoy a greater share in the benefits derived from those resources.

Sustainable development, oceans and the law of the sea

3. The Pacific small island developing States have a unique dependency on the ocean — it is the basis of our countries' livelihoods, our food security and our economies and represents a primary pathway to future sustainable economic growth. We are not only small island developing States, but also large ocean developing States. Yet, as is well documented, a number of different problems are posing serious threats to the health and long-term viability of marine ecosystems, as well as

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to our sustainable development and survival. The human impacts on the marine environment are profound. Key fish stocks are at their thresholds or overfished beyond maximum sustainable yields, and scientists warn that global fisheries are in crisis.

4. The Pacific small island developing States do not currently enjoy full economic and social benefits derived from the use of our marine living resources despite the overwhelming dependence on such resources. The sustainable development challenges of SIDS have already been well recognized in the existing multilateral framework for both oceans and sustainable development (see annex), yet progress towards the implementation of effective strategies to address them remains piecemeal, insufficiently supported and inadequate overall. The disconnect between the international instruments governing oceans on the one hand and sustainable development on the other has created barriers to the full realization of the development aspirations of small island developing States and in many instances are a primary barrier to the achievement of national economic development goals.

5. The Pacific small island developing States see the imperative for a concrete pathway for small island developing States with specific timelines, targets and milestones to facilitate the sustainable management of ocean resources and increase the share of benefits from their utilization, which should include enhanced direct economic participation and capacity-building. The cooperation and assistance of the international community is necessary to enable small island developing States to be a model for sustainable development.

Overview of progress to date and the remaining gaps in the implementation of relevant outcomes on oceans and seas of the major summits on sustainable development

6. One of the most serious gaps in the implementation of relevant outcomes on oceans and seas of the major summits on sustainable development relates to fisheries. This has the dual component for the Pacific of unsustainable fishing practices and a failure to obtain full social and economic benefits from fisheries resources, especially for coastal States where economies are overwhelmingly dependent on such resources. Overfishing beyond maximum sustainable yields and illegal, unreported and unregulated fishing are depleting once-abundant fish stocks and driving many species rapidly towards extinction, while destructive fishing practices such as bottom trawling cause enormous damage to marine ecosystems. Existing efforts to address those issues are not keeping pace with the rapid depletion of key fisheries, and urgent international will and action is necessary. Moreover, action to address unsustainable fishing practices must also ensure the realization of the development aspirations of small island developing States, as both principles are of primary importance and are deserving of comprehensive approaches.

Challenges and emerging issues affecting the sustainable development and use of oceans and seas

7. The combined impacts of climate change, namely sea-level rise, increased sea-surface temperature and intensified storm activity, with the adverse effects of ocean acidification caused by increased dissolved carbon dioxide, are among the biggest

threats to the health of oceans and coastal areas. Coral reef ecosystems are particularly susceptible to climate change and ocean acidification and may be the first marine ecosystem to collapse without urgent increased mitigation and adaptation action. Urgent and deep reductions in greenhouse gas emissions are a global imperative. Additionally, given the existing levels of carbon dioxide in the atmosphere and the ocean, building the resilience of vulnerable marine ecosystems to the impacts of climate change and ocean acidification, as well as other impacts, should feature prominently in a new action-oriented sustainable development paradigm.

The road to Rio plus 20 and beyond

8. Oceans should feature prominently on the agenda for Rio plus 20. Three key priorities for the Pacific small island developing States are: (a) increasing the share of benefits that those States receive from the use of their marine living resources; (b) reducing overfishing beyond maximum sustainable yields, destructive fishing practices and illegal, unreported and unregulated fishing; (c) building the resilience of marine ecosystems, and coral reefs in particular, to the impacts of climate change and ocean acidification, among other impacts. The way forward should include a concrete plan of action, including specific targets and milestones and support for creating and implementing regional road maps. Comprehensive and innovative approaches that address the sustainable use and management of marine living resources, as well as specific strategies and measurable results that advance their development aspirations, are all fundamental to the sustainable development prospects of Pacific small island developing States.

Annex

Preliminary list of elements of the existing multilateral framework for oceans and sustainable development

Key international instruments, agreements and strategies are summarized below as informal notes, with corresponding references. This toolbox is only preliminary in nature, and is intended to show the considerable extent of existing international agreements on sustainable development in the context of oceans and fisheries.

A. 1995 Fish Stocks Agreement and 2010 review

1. Fish Stocks Agreement

(a) (Art. 24) (1) Special requirements of developing States in conservation, management and development of fisheries are fully recognized and assistance is to be provided. (2) In cooperating on conservation/management measures, States shall take into account the vulnerability of developing States dependent on the exploitation of marine resources, the need to avoid adverse impacts and the need to ensure access by indigenous people in developing States and subsistence fishers.

(b) (Art. 25) States, directly and via regional and global organizations, shall enhance the ability of small island developing States and least developed countries to conserve and manage stocks and to participate in high-seas fisheries (facilitating access subject to articles 5 and 11) and participation in regional fisheries management organizations. Cooperation includes financial assistance, human resource development, technical assistance, joint venture arrangements, etc.

2. 2010 resumed Review Conference on the Fish Stocks Agreement

(a) (Sect. IV) (a)) The Conference recommended building the capacity of developing States, including small island developing States and least developed countries, to participate in high-seas fisheries, including for straddling fish stocks and highly migratory fish stocks, and to receive greater benefits from sustainable fisheries for such stocks, to develop their own fisheries and to improve their market access; (b) providing assistance to build capacity to implement the fish stocks agreement, facilitating access to and development of sustainable fisheries; and (c) avoiding adverse impacts of conservation measures and ensure access by indigenous peoples, particularly in small island developing States; (d) urge the mainstreaming of efforts to assist least developed countries and small island developing States with other relevant international development strategies to enable them to develop their national capacity to exploit fisheries resources (consistent with conservation); (e) encouraging identification of strategies that further assist small island developing States and least developed countries in realizing a greater share of benefits and in

strengthening regional efforts to conserve; and (f) updating compilation of sources of funding.

(b) (Sect. I (e)) The Conference recommended commitment to urgently reduce global fleet levels to levels in line with sustainability, while recognizing the legitimate rights of developing States to develop their own fisheries under article 25 of the fish stocks agreement.

(c) (Sect. I (k)) It was recommended that interaction between fisheries managers and scientists be strengthened to ensure that measures are based on best science, including through use of the Kobe II strategy matrix and regular scientific review of the effectiveness of regional fisheries management organization measures.

(d) (Sect. I (n)) Strengthen efforts were needed to study climate impacts and, where possible, to consider such impacts in establishing regional fisheries management organization measures.

(e) (Sect. II (a)) Regional fisheries management organization mandates should be modernized to reflect explicit modern approaches for conservation and management, including with respect to the development aspirations of small island developing States.

B. General Assembly resolutions on fisheries, oceans and corals

1. Sustainable fisheries (2010, General Assembly resolution 65/38) (in addition to many paragraphs on overfishing and global fleet reduction, to also be consistent with article 25 of the fish stocks agreement, by-catch, gear, etc.)

(a) (Para. 133) The international community, especially distant-water fishing nations, was to enhance opportunities for sustainable development, especially in least developed countries, small island developing States and coastal African States, by encouraging greater participation in their own fisheries, "to achieve better economic returns" from their own resources, and enhance the ability of developing countries to participate in high-seas fisheries, in conformity with international law (including the fish stocks agreement).

(b) (Para. 134) Distant-water fishing nations were requested, when negotiating access agreements, to be equitable and give greater attention to fish processing facilities in developing coastal States to assist the realization of benefits and the transfer of technology and monitoring, control and surveillance assistance (taking into account art. 25 of the fish stocks agreement).

(c) (Paras. 140 and 145) States were urged, individually and through regional fisheries management organizations, to mainstream efforts for small island developing States and least developed countries with other relevant development strategies, to enhance international coordination to enable them to develop national capacity to exploit fishery resources (consistent with conservation), and the Secretary-General was requested to fully mobilize and coordinate United Nations agencies, funds and programmes, including at the level of

the regional economic commissions, and to bring the resolution to the attention of the Inter-agency Consultative Group on small island developing States.

(d) (Para. 141) States and regional fisheries management organizations were requested to develop strategies to further assist small island developing States and least developed countries, in fully realizing the benefits from stocks, to strengthen regional conservation and management and to make available such information.

2. Protection of coral reefs for sustainable livelihoods and development (2010), resolution 65/150

(a) States were urged to take all practical steps to protect coral reefs for sustainable livelihoods and development and to implement comprehensive management approaches.

(b) Follow-up report of the Secretary-General in 2011 was requested

3. Oceans resolution and the law of the sea (2010, resolution 65/37 A): (sect. II) The importance of capacity-building for least developed countries, small island developing States and coastal African States in relation to sustainable ocean management was emphasized.

C. Agenda 21 (1992), chapter 17 on protection of the oceans (in the form of an international blueprint for action)

1. (Paras. 1 and 2) the United Nations Convention on the Law of the Sea is the international basis to pursue the protection of the marine and coastal environment and resources, requiring new precautionary approaches for, inter alia, integrated management and development (including exclusive economic zones), environmental protection, sustainable use and conservation in the high seas, critical uncertainties of climate change, coordination and sustainable development of small islands.

2. (Para. 14) Current approaches to the management of marine and coastal resources have not always proved capable of achieving sustainable development, and coastal resources are being rapidly degraded in much of the world.

3. (Paras. 5 and 6) Coastal nations are committed to integrated policy and decision-making (involving all sectors and balance of uses) for management, with corresponding coordinating mechanisms.

4. (Para. 22) Addresses the marine environment, emphasizing the precautionary approach, prior assessment, economic incentives and improvement of living standards of coastal populations.

5. (Para. 45) Concerning the sustainable use and conservation of marine resources on the high seas, management is inadequate and some resources are overexploited (illegal, unreported and unregulated, excessive fleet size, reflagging, gear, data, lack of cooperation between States).

6. (Paras. 46-49) States made a range of commitments on keeping fisheries at maximum sustainable yields, gear, monitoring, preserving habitats

(with full effect with respect to straddling stocks), with work to be fully consistent with the Convention (and rights and obligations of coastal and distant-water fishing nations), and with effective cooperation in regional fisheries management organizations.

7. (Paras. 70-96) Similar measures were adopted with respect to the sustainable use of marine resources under national jurisdiction, facing issues with illegal, unreported and unregulated fishing, ecosystems, excessive fleets, undervaluation of catch, gear and competition between artisinal and large scale fishing as well as coral reefs and other habitats. Coastal States (especially those where economies are overwhelmingly dependent on the exploitation of marine living resources of their exclusive economic zones) should obtain full social and economic benefits from the sustainable utilization of living marine resources, maintained at the maximum sustainable yield, within their exclusive economic zones. A range of corresponding implementation points were adopted including an enhanced utilization for food and income, conservation, monitoring, artisinal fisheries, the right to subsistence and other needs of local communities, promotion of quality assurance for seafood (to promote access to markets, consumer confidence and maximize returns) and financial and technical cooperation to enhance capacities of developing countries in fisheries.

8. (Paras. 97 and 98) Regarding the marine environment and climate change, there were many uncertainties about climate change, where small increases in sea level have the potential of causing significant damage to small islands; more research was needed to provide data, meanwhile, precautionary measures should be undertaken.

9. (Paras. 124-129) The ocean and coastal environment is of strategic importance and constitutes a valuable development resource (small islands are highly vulnerable to sea-level rise, increasing the threat of territory loss); small island development options are limited. States committed to adopting and implementing plans to support the sustainable development of marine and coastal resources (including meeting essential human needs and improving the quality of life for island people). Activities included analysis to determine the "carrying capacity" of small islands under different development assumptions and the preparation of medium- and long-term plans for sustainable development (with integrated environmental considerations).

D. Johannesburg Plan of Implementation (2002), section VII on sustainable development of small island developing States: (para. 58) Small island developing States are a special case for both environment and development, and while they take the lead, development constraints have already been clearly underlined. The actions for implementation include the implementation of further sustainable fisheries management and improvement of financial returns from fisheries by strengthening regional fisheries management organizations, including the Western and Central Pacific Fisheries Commission and the Caribbean Regional Fisheries Mechanism, as well as assisting small island developing States through the elaboration of specific initiatives, in delimiting and managing in a sustainable manner their coastal areas and

exclusive economic zones. The World Trade Organization was to take account of severe structural handicaps of small island developing States in integrating into the global economy.

E. Barbados Programme of Action for the Sustainable Development of small island developing States (1994) (sect. IV)

1. (Paras. 25 and 26) Sustainable development in small island developing States is heavily dependent on coastal and marine resources. The lack of integrated approaches to coastal and marine area management has limited the effectiveness of management measures leading to overexploitation and competing uses.

2. (Sect. A) Comprehensive, integrated management measures are needed, drawing on local knowledge. National measures are to be developed for the sustainable harvesting and processing of fisheries resources. International instruments on destructive fishing must be adhered to.

3. (Sect. B) The capacity of regional organizations to conduct research on commercial and non-commercial fisheries and reef and resource surveys should be enhanced. Action should be taken to monitor and promote innovative ways to sustainably develop exclusive economic zones, enhance negotiation capacity and capacity for monitoring, control and surveillance, harmonize policies for sustainable management and utilization of coastal/marine resources.

4. (Sect. C) States should facilitate mutually advantageous fishing agreements between small island developing States and foreign fishing groups, taking into account the fish stocks agreement, setting up regional and other joint venture fishing enterprises and providing other international support (integrated resource management, monitoring, control and surveillance, etc.).

F. Mauritius Strategy for the Further Implementation of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States plus 5 (2010)

1. (Para. 15) States recognized that small island developing States continued to be heavily dependent on coastal and marine resources, and that development challenges included limited access to financing and technology, global overfishing and destructive fishing practices and barriers to increased participation in fisheries and related activities.

2. (Para. 16) There was a need for improved conservation of coastal and marine resources and enhanced support for the implementation of integrated coastal zone management and research.

3. (Para. 17) Small island developing States and regional and international development partners should cooperate on developing and implementing sustainable management of coastal and marine resources;

4. (Para. 18) The adoption and implementation of effective global, regional and national measures for the long-term sustainable use of fisheries were required given their vital importance to the sustainable development of small island developing States, including global fleet capacity reduction,

full participation of small island developing States in regional fisheries management organizations, assistance for small island developing States in developing their fisheries sector to facilitate a greater level of participation in high-seas fisheries (to enable a greater share of benefits, to develop their own fisheries and to improve market access), capacity in monitoring, control and surveillance to address illegal, unreported and unregulated fishing, mainstreaming of efforts to assist small island developing States with other international development strategies so as to enhance international coordination and enable development of national capacity to exploit fisheries (consistent with conservation and management duties).

G. Mauritius Strategy for the Further Implementation of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States (2005) (sect. IV)

1. (Para. 26) Small island developing States are defined by their links to oceans and are heavily dependent on marine resources for their livelihoods. Despite instruments, capacity and finance are continued barriers to implementation of the Convention.

2. (Paras. 27-31) Implementation should be prioritized and can overcome constraints with necessary support, including surveillance and monitoring systems, support by distant-water fishing nations for effective sustainable management, including with respect to coral reefs and marine protected areas, and regional initiatives for sustainable management.

H. Other instruments and protocols adopted at the United Nations Conference on Environment and Development

1. Convention on Biological Diversity

2. United Nations Framework Convention on Climate Change

I. Regional declarations and arrangements, other instruments and agreements